

1  
2  
3  
4 **IN THE UNITED STATES DISTRICT COURT**  
5 **FOR THE EASTERN DISTRICT OF WASHINGTON**

6 DAVID DANIELS,

7 Plaintiff,

8 v.

9 MEDICAL DENTIST FUGER,

10 Defendant.

NO: 4:14-cv-05112-JPH

REPORT AND RECOMMENDATION  
TO DISMISS COMPLAINT  
WITHOUT PREJUDICE

11 BEFORE THE COURT is Plaintiff David Daniels' Motion to Voluntarily  
12 Dismiss Complaint pursuant to Fed. R. Civ. P. 41(a). Defendants have not been  
13 served in this action. Accordingly, **IT IS RECOMMENDED** Plaintiff's Motion  
14 ECF No. 10, be **GRANTED** and the Complaint be **DISMISSED WITHOUT**  
15 **PREJUDICE**.

16 Although granted the opportunity to do so, Plaintiff did not file a separate  
17 Motion and Affidavit to waive the remaining balance of the filing fee as directed.  
18 Therefore, Plaintiff will still be obliged to pay the full filing fee for this action  
19 pursuant to 28 U.S.C. § 1915(b).

20 REPORT AND RECOMMENDATION TO DISMISS COMPLAINT WITHOUT  
PREJUDICE -- 1

## OBJECTIONS

Any party may object to a magistrate judge's proposed findings, recommendations or report within fourteen (14) days following service with a copy thereof. Such party shall file written objections with the Clerk of the Court and serve objections on all parties, specifically identifying the portions to which objection is being made, and the basis therefor. Any response to the objection shall be filed within fourteen (14) days after receipt of the objection. Attention is directed to FED. R. CIV. P. 6(e), which adds additional time after certain kinds of service.

A district judge will make a de novo determination of those portions to which objection is made and may accept, reject, or modify the magistrate judge's determination. The judge need not conduct a new hearing or hear arguments and may consider the magistrate judge's record and make an independent determination thereon. The judge may, but is not required to, accept or consider additional evidence, or may recommit the matter to the magistrate judge with instructions. *United States v. Howell*, 231 F.3d 615, 621 (9th Cir. 2000); 28 U.S.C. § 636(b)(1)(B) and (C), FED. R. CIV. P. 72; LMR 4, Local Rules for the Eastern District of Washington.

A magistrate judge's recommendation cannot be appealed to a court of appeals; only the district judge's order or judgment can be appealed.

1       **IT IS SO RECOMMENDED.** The District Court Executive is directed to  
2 enter this Report and Recommendation, forward a copy to Plaintiff at his last  
3 known address and set a case management deadline accordingly.

4       DATED March 3, 2015.

5                               s/ James P. Hutton

6                               James P. Hutton

7                               United States Magistrate Judge  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19